G. R. S. App. F. IX-4]

1942.

File No. 79-42

Previous References.
(Pris 2-42(3)

(Pris)

Serial Nos. 1-2

Later References.
Pris 52-55-4
Cfy. 63-56-(1)

PRESERVED

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Two.

Part B for December. 42

SUBJECT.

Whipping as a punishment for prison offences in the present emergency.

G. O. No. P. 3720 dated 28 November

To.

The Inspector-General of Prisons in Mysore

Passes orders reviving

General and Revenue Secretariat

Pus File No. 79 of 1942 [App. F. III-

Serial No.

D. O letter No. 27 dated Camp Me
16th Octr 1942 from the Chief Pri
requesting orders for the revival of
whipping as a prison punishment
during the present emergency, in
circumstances explained by him.

—11—

Submitted: Flogging as a punishment
prison offences was ordered to be abo
in G.O No Pri 2-42-3 dated 27th
1942. The Chief Prison now reports
the detenues in the Mysore Jail have
began to indulge themselves in all
sorts of unlawful acts and requ
that the flogging may be revived
in the present emergency in order
put down such happenings.

Submitted for orders with a draft
G.O

Draft G.O. suspending the ope
of the G.O. abolishing whipping for the
duration of the war is submitted for
consideration.

6/10/42

PRISONS

2493

General and Revenue Secretariat

Serial No.

OFFICE OF THE MINISTER FOR LAW
OCT 16 1942
No. 3261

having regard to the present situation

Cus

Minister, Law

16-10-42

Mr. Watt 16/10

Defence

Rec

16/10

I have considered the matter over again. I was hoping this could be avoided. But I am afraid this would be a vain hope under present circumstances. The main ~~object~~ ground of awarding it was the recognition that "the best policy from all points of view is to abolish Corporal punishment once for all, in full confidence that such a course can have none but beneficial results." (para of their report.) We have adopted this recommendation & acted on it in that confidence.

That confidence is rudely shaken in the present circumstances. Little did we dream at the time we accepted this recommendation that, ~~in the~~ in the face of a threat of imminent foreign invasion, an intelligent, disciplined cultured ~~and refined~~ and educated body of His Highness' subjects ~~of the~~ would, following the lead of a similar section ~~in the~~ outside the State, set afoot a movement and let-

Serial No.

to disrupt organised society, endanger property disorganise ~~and impede~~ production, transport and communications, unfold the War effort, and misguide the learners & the youth of the Country who ~~the~~ misguided and misled channels.

This spirit of indiscipline has invaded the senior precincts of the jail as well. ~~and~~ The disrespect with which the Jail Staff is treated frequently ~~that~~ this serious extends to the long term convicts and the detenues. It is therefore absolutely necessary to resort to the use of the provisions of Section ~~49~~ 48 (3) & 49 in regard to whipping under orders of the Superintendent respectively.

The Superintendent of the Jail may exercise the power under Sec^{n} 48 only in respect of ~~offences~~ ~~committed~~ acts of ~~Commission~~ of offences falling under 47 (2) ~~and 47 (10) and 47 (11)~~ ~~etc~~ ~~etc~~ ~~etc

Serial No. 3261

a notice for each prisoner. They will be exempted under the Act, except when they have ceased to be detenues by being sentenced by a Magistrate under Sec. 49 of the Prisons Act for a previous previous offence to undergoing rigorous imprisonment under order of the Court

If the Durbar approves, this

No. C. 1

of 1942.

GENERAL AND REVENUE SECRETARIAT

Council Matter.

Subject

Revival of whipping as a prison punishment during the present emergency.

Circulated to the Council of Ministers.

By Order,

22nd October 1942.

Chief Secretary to Government.

Minister for Finance and Revenue

Minister for Law (Seen)

Minister for Education.

Minister for Local Self-Government and Public Health

Extract from the Proceedings of the Twenty-sixth *Meeting of the Council of Ministers held at Bangalore on* 5th November *1942*

3. SUBJECT:-

Revival of whipping as a prison punishment during the present emergency.

OPINION OF THE COUNCIL.

The order of 27th July 42 may be withdrawn during the present emergency.

PRISONS

Flogging as a punishment for prison offences.

General and Revenue Secretariat | File No. | of 194 . | [App. F. III-

Serial No.

NOV 17 1942

N 4311

Please put up typed D.F.N. as revised MRV 14/11

Typed D.F.N as revised is put up 6. 14/11

Draft Final Note is submitted

6 MRV 14/11

18/11 Law Secy)

m

Please peruse as suggested.

Ans 14-11-42

D.F.N is revised and submitted. MRV 16/11

6 16/11 Law Secy)

m

D.F.N. submitted

Ans 16-11-42

MRV 16/11

Mudaliar

18/11

Ans 16-11-42

S.N. is submitted

Ans

Dewan

Final Note by the Minister for Law

Subject.—

Flogging as a punishment for Prison offences.

Whipping as a form of punishment for offences committed by prisoners in Jails was abolished by a Government Order No. P.698/ Pris. 2-42-3 dated 27th July 1942, on the recommendation of the Prison Reforms Committee.

The Inspector-General of Prisons has brought to notice that the inmates of the Mysore Jail behaved very rudely towards the Staff on the 16th October 1942, and tried to cause injuries to them and assaulted the Chief Jailor. He reports that they also resorted to incendiarism and attempted to smash the glass windows, throw open the main gate of the Jail and burn the office records. The situation was stated to be far beyond the control of the Jail Staff and the help of the Police had to be sought.

In order to put down such incidents and maintain discipline in the Jail, he urges that the whipping of prisoners by the order of Superintendents of Jails may be revived during the present emergency by keeping the Order of the 27th July 1942 in abeyance.

The subject was considered at a meeting of the Council held on the 5th November 1942 and it was resolved that the Order of 27th July 1942 might be withdrawn during the present emergency.

I solicit the gracious approval of His Highness to the Council resolution.

Bangalore,)
)
18th November 1942.)

MINISTER FOR LAW.

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Law on the subject of the revival of whipping as a punishment for prison offences in the present emergency, for His Highness's gracious approval.

M. Ananthanarayanan

Bangalore,
19th November 1942.

MINISTER, FINANCE & REVENUE
in charge of the current duties of the Dewan.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Proposal to revive whipping as a punishment for prison offences in the present emergency.

Order.

General and Revenue

Secretariat.

SUBJECT:—

Proposal to revive whipping as a punishment for prison offences in the present emergency

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders ~~before~~/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules of the Mysore Government Business Rules.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

.....Law.....Department.

25-11-42

Minister for Finance and Revenue. 4672 7.12.42

Minister for Law. 4784 9.12.

Minister for Education. 2689 5/12

Minister for Local Self-Govt. and Public Health. 4297 1/12/42

3.12.42

WD 0718—GPB—1,000—11-9-42

2423/42

V. V. MONTEIRO, ESQ.,
M.B.B.S., F.R.F.P.S. (GLAS.), L.D.S. (ENG.),

Office of the Inspector-General of
Prisons in Mysore.

Camp. Mysore
~~Bangalore~~, dated the...16th...October...1942.

D.O. No. 27

Immediate and Confidential.

ENC. 2

Pris 79-42-1

Dear Mr. Narayanaswami Naidu,

In enclosing herein a copy of letter No. 1809 dated the 15th October 1942 from the Superintendent, Mysore Jail, requesting that for reasons stated, the Superintendent of the Jail may be empowered to order whipping in cases of emergency, I write to inform you that when I was at the Mysore Jail this morning in the company of the Chief Engineer, the detenues behaved very rudely towards the staff, assaulted a Jail Warder, and tried to cause injuries to the staff of the Jail. They also resorted to incendiarism and attempted to smash the glass windows, throw open the main gate of the Jail and to burn the office records and set fire to a few minor articles. The situation was far beyond the control of the Jail staff and I had to seek the help of the Reserve Police.

To meet such emergencies and to maintain discipline in the Jail, I propose that the Superintendents of the Jails may be - empowered to order whipping whenever necessary. I request you to obtain necessary orders of Government for the revival of whipping which was abolished in Government Order No.P.698/Pris.2-42-3 dated 27th July 1942 on the recommendation of the Prison Reforms Committee. - during this period of emergency

Yours sincerely,

C.Narayanaswami Naidu, Esq., B.A., B.L.,
Secretary to Government,
Law Department,
Bangalore.
Camp, Mysore.

Copy of letter No.1809 dated the 15th October 42 from the Superintendent, Mysore Jail, Mysore, to the Inspector General of Prisons in Mysore, Bangalore.

In enclosing herewith a copy of letter No.235 dated 15-10-1942 from the Medical Officer, Mysore Jail Hospital, for favour of perusal, I beg to submit that some of these Detenues are behaving rudely towards the staff and as a measure of disciplinary action I consider it necessary that the Superintendents of the Jails should be empowered to order whipping in deserving cases. I beg to request you therefore to kindly move the Government in the matter of empowering the Superintendent of the Jail to order whipping in such cases.

In the case of patients when the Medical Officer of the Jail Hospital, requires the assistance of the Specialist for opinion, the Specialist of the Krishnarajendra Hospital, Mysore, may be directed to visit the Jail Hospital, once a week for examination and furnishing opinion.

'Copy.'

Inspector General of Prisons.

in their behaviour.

'C o p y.'

Inspector General of Prisons.

Letter No. 235 dated the 15-10-1942 from the Medical Officer, Jail Hospital, Mysore, to the Superintendent, Mysore Jail, Mysore.

With reference to your letter No.1644 dated 2-10-1942 asking for placing the Ambulance car of the Krishnarajendr Hospital at your disposal for conveying the detenue patients to the Hospital because they created sensation and shouted slogans near the Hamilton Building while they were being conveyed in a shapsand Tonga, I have the honor to state that most of the Detenues pretend to be sick and demand treatment in the Krishnarajendra Hospital as it gives them an opportunity of meeting their friends and fellow students on the way as well as in the hospital for exchange of views and information. Many of these cases who pretend to be very bad in the Jail Hospital subsequently admitted in the Krishnarajendra Hospital were found to be sitting in the park in front of the Hospital and talking. Subsequent reports from the Krishna rajendra Hospital indicate that most of them were malingerers. Many of these Detenues go to the extent of threatening the authorities that they would go on hungerstrike if they are not sent to Krishnarajendra Hospital almost daily. At times they are impertinant and even violent in

R. S. App. F VI—G 2]

SUBJECT .....

....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 28.11.42 193

Signed by Mr. K.P.P

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the press ? present

(vi) published in the Gazette, Kannada Part ?

Section. Pno

File No. 79-42

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read— G.O. No. P. 698/Pris. 2-42-3, dated the 27th July 1942, directing the abolition of flogging as a prison punishment.

2. Letter No. 27, dated the 16th Oct 1942 from the I.G. of Prisons, recommending, in the circumstance stated, the revival of whipping during the period of emergency as a punishment for prison offences.

Order thereon.—No.

Order No.P. 3720

Dated 28-11-42

~~Government are pleased to accept~~

The recommendation of the I.G. of Prisons is approved as a temporary measure and accordingly direct that the following rules be added to the Jail Manual.

Rule, "286 - When whipping is awar[d]
punishment, it shall be carried out i[n]
accordance with the rules regulating
execution of a judicial sentence of w[hip]
ping, so far as they may be applicabl[e]

Rule, "287 - ~~As a general princip~~
Whipping shall only be resorted to as
last resource, and when other means of punish-
ment have been tried and failed. Except ~~in specially grave cases~~, it should not be
awarded ~~for a first offence~~. In awarding it,
~~the Superintendent~~ should be guided by the
previous conduct, antecedents and condition
in life of the prisoner. When it is decided
that whipping is necessary, the punishment
should be sufficiently severe to act as a
deterrent".

Rule, "288 - Whenever the punishm[ent]
whipping is awarded, a note shall be
in the Punishment Book, in addition
entries required under Section 48 of
Prisons Act, 1870, stating the reaso[n]
considering this kind of punishment
sary".

G. R. S. App. F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Rule, "289 - The admission to hospital of prisoners after whipping shall be avoided as far as is consistent with proper treatment, any ordinary laceration of the skin and surface tissues being treated while the convict is kept in a cell. If, in any case, actual illness, which is directly or indirectly the result of whipping, follows its infliction, a special report shall be made at once to the Inspector-General".

They ~~are~~ further ~~pleased to~~ direct that the words "from whipping" be inserted after the word "exempt" in the fourth sentence of Rule 322 and that the words "or whipping" be inserted after the word "fetters" in Rule 654 of the said Jail Manual.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Read:-

G.O.No.P.698/Pris.2-42-3, dated the 27th July 1942, directing the abolition of flogging as a prison punishment.

2. Letter No.27, dated the 16th October 1942 from the Inspector General of Prisons, recommending, in the circumstance stated, the revival of whipping during the period of the present emergency as a punishment for prison offences.

ORDER NO.P. 3720 Pris 79-42-2 -

Dated, Bangalore, the 28th November 1942.

The recommendation of the Inspector General of Prisons is approved as a temporary measure ~~during the duration of the war.~~ They accordingly direct that the following rules be added to the Jail Manual,

Rule, "286-When whipping is awarded as a prison punishment, it shall be carried out in accordance with the rules regulating the execution of a judicial sentence of whipping, so far as they may be applicable".

Rule, "287- Whipping shall only be resorted to as a last resource, and when other means of punishment have been tried and failed. Except in cases of extreme insubordination ~~following~~ falling under Section 47(1) and offences ~~following~~ falling under Section 47(2), the Superintendent shall not exercise his power under Section 48 of the Prisons Act. For other prison offences, it should not be awarded except by a Magistrate under Sec. 49 of that Act. In awarding it, the Superintendent and the Magistrate should be guided by the previous conduct, antecedents and condition in life of the prisoner. When it is decided that whipping is necessary the punishment should be sufficiently severe to act as a deterrent".

Rule, "288-Whenever the punishment of whipping is awarded by the Superintendent, a note shall be made in the Punishment Book, in addition to the entries required under Section 48 of the Prisons Act, 1870, stating the reasons for considering this kind of punishment necessary".

Rule, "289-The admission to hospital of prisoners after whipping shall be avoided as far as is consistent with proper treatment. any

ordinary laceration of the skin and surface tissues being treated while the convict is kept in a cell. If, in any case, actual illness, which is directly or indirectly the result of whipping, follows its infliction, the prisoner should be removed to the Prison Hospital and a Special report shall be made at once to the District Magistrate of the District and to the Inspector General".

They further direct that the words "from whipping" be inserted after the word "exempt", in the fourth sentence of Rule 322 (privileges of convict warders) and that the words "or whipping be inserted after the word "fetters" in Rule 654 of the said Jail Manual (relating to ~~xxxxxxxx~~ undertrial prisoners).

for Secretary to Government,
Law Department.

To

The Inspector General of Prisons in Mysore.

LC/3.